

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA**

RESOLUTE FOREST PRODUCTS, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION FILE
)	NO. CV116-071
)	
GREENPEACE INTERNATIONAL, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**DECLARATION OF LACY H. KOONCE, III
IN SUPPORT OF GREENPEACE DEFENDANTS'
MOTION TO DISMISS PURSUANT TO RULE 12(B)(6) AND
MEMORANDUM IN SUPPORT**

1. I am an attorney with the law firm of Davis Wright Tremaine LLP, attorneys of record for Defendants Greenpeace International (“GPI”), Greenpeace, Inc. (“GP Inc.”), Daniel Brindis, Amy Moas, Matthew Daggett, and Rolf Skar (collectively, the “Greenpeace Defendants”) in the above-captioned matter.

2. The instant Declaration is submitted in support of the Greenpeace Defendants’ motion pursuant to Rule 12(b)(6) to dismiss in its entirety and with prejudice the Complaint of Resolute Forest Products, Inc. (“Resolute FP”), Resolute FP US , Inc., Resolute FP Augusta, LLC (“Resolute Augusta”), Fibrek General Partnership, Fibrek U.S., Inc., Fibrek International Inc., and Resolute FP Canada, Inc. (collectively, “RFP”).

3. The Complaint identifies via Appendices A-F, 204 alleged defamatory statements. The Greenpeace Defendants refer to these alleged defamatory statements by Appendix and row. For example, the first alleged defamatory statement in RFP’s Appendix A is denoted in the Greenpeace Defendants’ motion papers and Tables as “A01.”

4. The body of the Complaint alleges 63 additional alleged defamatory statements. The Greenpeace Defendants refer to these statements numerically as “Compl. Allegation #” in the Greenpeace Defendants’ motion papers and Tables.

5. Combining the 204 alleged defamatory statements in RFP’s Complaint Appendices A-F, and the 63 additional alleged defamatory statements from the body of the Complaint, totals 267 alleged defamatory statements set forth in the Complaint. A chart detailing these 267 alleged defamatory statements, in a format similar to Appendices A-F appended to RFP’s Complaint, is attached hereto as the Greenpeace Defendants’ (GP Defs.’) Table A.

6. The Greenpeace Defendants endeavored to identify and locate all publications that RFP’s Complaint asserts contained alleged defamatory statements. These publications have been collected in the Greenpeace Defendants’ four-volume Appendix (“App.”). Each alleged defamatory statement set forth in GP Defs.’ Table A correlates with a corresponding document in the Appendix. For example, alleged defamatory statement A01 can be found in the Appendix at tab number 1 behind tab “Appendix A.”

7. The vast majority of the 267 alleged defamatory statements are outside the applicable one-year statute of limitations. O.C.G.A. § 9-3-33. Only 49 of the 267 alleged defamatory statements are not time-barred. Two charts sorting the 267 alleged defamatory statements chronologically and indicating by color the 218 alleged defamatory statements outside the applicable one-year statute of limitations are attached hereto as GP Defs.’ Tables B-1 and B-2.

8. Of the 267 alleged defamatory statements, 109 are authored or attributed to parties named in this suit and 158 are by non-parties. The non-party entries breakdown as

follows: 128 are by Greenpeace Canada, 18 are by Greenpeace United Kingdom, five are by Greenpeace Germany, three are by Greenpeace Brazil, three are by Greenpeace India, and one is by Bloomberg. A chart indicating by color all alleged defamatory statements made by non-parties is attached hereto as GP Defs.' Table C.

9. Of the 49 allegedly defamatory statements that are not time-barred, only 26 statements were made by named defendants. A chart indicating these remaining 26 alleged defamatory statements, organized by date, is attached hereto as GP Defs. Table D.

10. The 26 alleged defamatory statements that are not time-barred and that were made by named parties can be found in ten publications. These ten publications are collected, for ease of reference, in the Greenpeace Defendants' Supplemental Appendix ("Suppl. App."). GP Defs.' Table D indicates, which publication contains each of the 26 remaining alleged defamatory statements.

11. In addition to the 267 alleged defamatory statements set forth in the Complaint, the Complaint also contains another 37 statements in Compl. Table B under RFP's RICO claims. The Complaint alleges that a combined 304 statements are fraudulent or extortive under RICO. Of this total 304 statements, 255 were made outside the one-year statute of limitations for defamation in Georgia. Further, 26 of the remaining 53 statements were made by non-defendants, leaving only 27 statements, or less than 9% of the total, that are not otherwise time-barred or were actually made by the Greenpeace Defendants.

12. A true and accurate copy of Greenpeace International Annual Report 2015 is attached hereto as Exhibit 1.

13. A true and accurate copy of Canadian Action, 2016 ONSC 5398 (Aug. 26, 2016), is attached hereto as Exhibit 2.

14. A true and accurate copy of Greenpeace Mission Statement titled “Our core values” is attached hereto as Exhibit 3.

15. A true and accurate copy of documents on relationships between GPI and NGOs, Greenpeace Governance structure and Stichting Greenpeace Council Rules of Procedure are attached hereto as Exhibit 4.

16. A true and accurate copy of Greenpeace’s 2015 Annual Report and Greenpeace International and Related Entities Combined Financial Statements Year ended 31 December 2015 are attached hereto as Exhibit 5.

17. A true and accurate copy of Greenpeace campaigns regarding Protecting forests is attached hereto as Exhibit 6.

18. A true and accurate copy of the Canadian Boreal Forest Agreement is attached hereto as Exhibit 7.

19. A true and accurate copy of a self-generated press, in a series of websites, tweets, and interviews is attached hereto as Exhibit 8.

20. A true and accurate copy of “The Heartland Institute – What We Do – Why Heartland?” is attached hereto as Exhibit 9.

21. A true and accurate copy of a series of materials of reports by Heartland and Heartland-associated entities regarding Greenpeace is attached hereto as Exhibit 10.

22. A true and accurate copy of State of Georgia Secretary of State Annual Registration of Resolute FP Augusta LLP business filing effective February 26, 2016 is attached hereto as Exhibit 11.

23. A true and accurate copy of a Resolute Forest Products press release on closing the Augusta plant is attached hereto as Exhibit 12.

24. A true and accurate copy of a 2016 Resolute Forest Products Inc. Form 10-Q SEC filing is attached hereto as Exhibit 13.

25. A true and accurate copy of Resolute Forest Products 2015 Form 10-K filing is attached hereto as Exhibit 14.

26. A true and accurate copy of a May 5, 2016 Augusta Chronicle news article re “Augusta paper plant will lay off up to 95” is attached hereto as Exhibit 15.

27. A true and accurate copy of Georgia Secretary of State search report is attached hereto as Exhibit 16.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of September, 2016, in New York City.



Lacy H Koonce, III